

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

STATE OF TEXAS, *et al.*,

*Plaintiffs,*

v.

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION, *et al.*,

*Defendants.*

Case No. 2:24-cv-173-Z

**UNOPPOSED MOTION OF SMALL BUSINESS MAJORITY, MAIN STREET  
ALLIANCE, AND AMERICAN SUSTAINABLE BUSINESS COUNCIL FOR  
LEAVE TO FILE BRIEF OF *AMICI CURIAE* AND  
TO PROCEED WITHOUT LOCAL COUNSEL**

Proposed *Amici Curiae* Small Business Majority, Main Street Alliance, and American Sustainable Business Council respectfully move for leave to file the attached *amicus* brief in opposition to Plaintiffs’ motion for summary judgment and in support of Defendants’ cross-motion for summary judgment. Proposed *Amici* further seek leave of the Court to proceed without local counsel pursuant to Local Civil Rule 83.10. Proposed *Amici* have contacted counsel for the parties for their positions on these motions; Plaintiffs are unopposed to the motions, and Defendants consent to the motions.

**INTEREST OF *AMICI CURIAE***

Proposed *Amici* represent small businesses across the United States that rely on the EEOC’s Enforcement Guidance on Harassment in the Workplace (“Anti-

Harassment Guidance” or “Guidance”) to ensure that they are complying with federal civil-rights laws. *Amici* provide the following statements of interest:

Small Business Majority is a national small business organization that empowers America’s diverse entrepreneurs to build a thriving and equitable economy. Small Business Majority engages a network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Small Business Majority’s work is bolstered by extensive research and deep connections with the small business community.

Main Street Alliance is a national network of small businesses, which represents approximately 30,000 small businesses across the United States. MSA helps small business owners realize their full potential as leaders for a just future that prioritizes good jobs, equity, and community through organizing, research, and policy advocacy on behalf of small businesses. MSA also seeks to amplify the voices of its small business membership by sharing their experiences with the aim of creating an economy where all small business owners have an equal opportunity to succeed.

The American Sustainable Business Council is a multi-issue membership organization comprised of the business and investor community, which collectively represents over 200,000 businesses, the majority of which are small and mid-sized businesses. ASBC advocates for solutions and policies that support a just, sustainable stakeholder economy. Its mission is to educate, connect, and mobilize

business leaders and investors to transform the public and private sectors and the overall economy.

### ARGUMENT

Courts have broad discretion to allow the participation of *amici curiae*. See, e.g., *Richardson v. Flores*, 979 F.3d 323, 345 (5th Cir. 2020); *United States v. Gozes-Wagner*, 977 F.3d 323, 345 (5th Cir. 2020) (noting “broad discretion” to consider “amici’s additional arguments”). In deciding whether to grant leave, courts generally consider whether “the proffered information is timely and useful or otherwise necessary to the administration of justice.” *United States ex rel. Long v. GSD & M Idea City LLC*, No. 11-cv-1154, 2014 WL 11321670, at \*4 (N.D. Tex. Aug. 8, 2014) (quoting *Does 1-7 v. Round Rock Indep. Sch. Dist.*, 540 F. Supp. 2d 735, 739 n.2 (W.D. Tex. 2007)).

Proposed *Amici*’s brief is both timely and useful. As associations of thousands of small businesses who rely on the EEOC’s Anti-Harassment Guidance, proposed *Amici* offer an important perspective to the Court not provided by the parties. They explain that small businesses benefit from the Guidance, which helps them understand and comply with their obligations to their employees under federal civil-rights laws. They further explain that the Guidance is good for businesses’ bottom lines and overall success. And finally, proposed *Amici* explain that whereas the costs of implementing the Guidance are minimal, the costs of enjoining it would be substantial, particularly for *Amici* and their members.

Moreover, granting proposed *Amici*'s motion would not delay resolution of the summary-judgment briefing. Briefing on Plaintiffs' motion and Defendants' cross-motion has not yet closed. The brief was filed within seven days of the brief that it supports. *See* Fed. R. App. P. 29(a)(6). No party will be prejudiced by permitting proposed *Amici* to file their brief and, indeed, no party opposes it.

Additionally, proposed *Amici* request leave of the Court to proceed without local counsel. Proposed *Amici* plan only to file an *amicus* brief and the instant unopposed motion in this matter. They are not seeking the opportunity to participate in arguments or hearings before the Court, and therefore anticipate that they will not need to appear in person in connection with this matter. Counsel for proposed *Amici* have reviewed the Local Rules for the Northern District of Texas and this Court's procedures.

### CONCLUSION

For the foregoing reasons, proposed *Amici* respectfully request that the Court grant their motion for leave to file their proposed *amicus* brief and to proceed without local counsel.

Dated: November 20, 2024

Respectfully submitted,

*s/ Sarah R. Goetz*

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*\*Pro hac vice* application forthcoming

*Counsel for Amici Curiae*

**CERTIFICATE OF SERVICE**

I certify that on November 20, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record in this matter.

Dated: November 20, 2024

*s/ Sarah R. Goetz*

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